

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 9-00) IN THE MATTER OF AMENDING CHAPTER 2 OF
) LANE CODE TO ADD PROVISIONS ESTABLISHING
) A REAL PROPERTY COMPENSATION APPLICATION
) PROCESS RESULTING FROM VOTER APPROVAL OF
) BALLOT MEASURE 7, AND DECLARING AN EMERGENCY

The Board of County Commissioners of Lane County ordains as follows:

Chapter 2 of Lane Code is hereby amended by adding the following pages:

REMOVE THESE PAGES

NONE

INSERT THESE PAGES

2.700 – 2.710 to
2.760(3) – 2.770
i.e. 2-18a to 2-18f
(a total of 6 pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these additions is to amend Lane Code Chapter 2 to Add Provisions Establishing a Real Property Compensation Application Process Resulting from Voter Approval of Ballot Measure 7. Until further action by the Board adopting city regulations for application within the Springfield and Eugene Urban Growth Boundaries, the provisions of LC 2.700 through 2.770 shall be applicable in those areas and the terms "County", "County Administrator" and "Board" shall mean "City", "City Manager" and "Council" as necessary for each city to process claims made for property within the Urban Growth Boundary of that city. The Board hereby authorizes city application review and related decisions as necessary for each respective city to respond to those claims.

An emergency is hereby declared to exist and this Ordinance, being enacted by the Board in the exercise of its police power for the purpose of meeting such emergency and for the immediate preservation of the public peace, health and safety, shall take effect immediately upon adoption.

ENACTED this 17th day of December 2000.

Chair, Board of County Commissioners

Melissa A. Zimmer
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 12-4-2000 Lane County

Stephen J. Usher
OFFICE OF LEGAL COUNSEL

Chapter 2

REAL PROPERTY COMPENSATION/REGULATION APPLICATION PROCESS2.700 Findings and Purpose.

(1) Findings. On November 7, 2000 the voters of the State of Oregon approved Ballot Measure 7 which amended Article 1, Section 18 of the Constitution of Oregon to require, under certain circumstances, payment to landowners if a government regulation reduces property value. Ballot Measure 7 permits owners of private real property to apply for compensation for the reduction of property value resulting from imposition of a regulation that restricts the use of that property and the government has 90 days from such application to deny or pay the claim or take action to not apply the regulation on the property. Since Ballot Measure 7 does not set forth a specific process for review of applications for compensation, it is in the best interests of Lane County to establish such a process in order to be able to assess such claims in a timely manner.

(2) Purpose. The provisions of LC 2.700 through 2.770 implement the provisions added to Article I, Section 18 of the Oregon Constitution by Ballot Measure 7 (November 7, 2000). The provisions of LC 2.700 through 2.770 establish a prompt, open, thorough and consistent process that enables property owners to present their legitimate claims consistent with the Oregon and U.S. Constitutions; enable persons with claims to have an adequate and fair opportunity to present them to the County; preserve and protect limited public funds; and establish a record of decision capable of appellate review. The provisions of LC 2.700 through 2.770 shall become operative only when the provisions added to Article I, Section 18 of the Oregon Constitution by Ballot Measure 7 (November 7, 2000) become effective.

2.710 Definitions. For the purpose of LC 2.700 through 2.770 the following terms, phrases, words and their derivations shall have the meaning given in LC 2.710. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. Words not defined in LC 2.700 through 2.770 shall be given the meaning intended in Article 1, Section 18, subsections (a) through (f) of the Oregon Constitution, or as those words may be subsequently defined by statute. Words used in LC 2.700 through 2.770 that are the same as words used in Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, shall have the same meaning as the words used in those subsections of the Oregon Constitution, notwithstanding any different definition in any other regulation. If not defined there, the words shall be given their common and ordinary meaning.

County Administrator. The County Administrator or the Administrator's designee.

Exempt Regulation. A regulation that is an historically and commonly recognized nuisance law; a regulation to implement a requirement of federal law to the minimum extent required; or a regulation that prohibits selling pornography, performing nude dancing, selling alcoholic beverages or other controlled substances, or operating a casino or gaming parlor.

2.720 **Application for Claim.** An applicant seeking to file a claim under LC 2.700 through 2.770 shall be an owner of the property that is the subject of the claim. An applicant shall submit an application to the County Administrator consisting of all of the items set out in LC 2.720(1) through (9). The County Administrator may waive the submission of any materials if not deemed applicable to the specific claim. Within 10 days of when the application is first submitted, the County Administrator may require additional information beyond that listed in LC 2.720(1) through (9) where useful to address approval criteria. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The County will not deem the application complete until all information required by the County Administrator has been submitted. Unless specifically waived by the County Administrator, the following must be submitted:

- (1) A completed application form;
- (2) The name, mailing address, and phone number of the property owner filing the application, and of each of the other owners of the subject property, if any, along with the signature of each of the other owners indicating consent to the application claim;
- (3) A legal description and tax lot number of the subject property as well as a street address for the property (if any);
- (4) A title report issued within 30 days of the application's submittal, including title history and including a statement of the date the applicant acquired ownership of the subject property and showing the ownership interests of all owners of the property or, as an alternative to the title report, a copy of the deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the application;
- (5) A statement specifically identifying the section of Lane Code or other regulation that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property, including the date the regulation was adopted, first enforced or applied to the subject property;
- (6) A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the requirements of Article 1, Section 18, subsections (a) through (f) of the Oregon Constitution and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively;
- (7) A written statement addressing the criteria listed in LC 2.740(a) through (d);
- (8) A statement by the applicant specifying the amount of the claim, and the fair market value of the property before and after application of the challenged regulation(s); and
- (9) Copies of any covenants, conditions and restrictions applicable to the subject property.

Unless waived by the County Administrator, an application also shall include an application fee, in the amount established by Order of the Board, to at least partially cover the County costs of processing the application, to the extent an application fee may be required as a condition of acceptance of filing of an application under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution. The County shall refund the application fee if it is determined by the County or by a court that the applicant is entitled to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution.

2.730 Completeness Review. The County Administrator shall review a claim application and, within 10 days of its receipt, notify the applicant as to whether the application is complete. If the County Administrator determines that the application is complete, the County Administrator shall begin the application review process. If the County Administrator determines that the application is incomplete, the county shall advise the applicant in writing of the necessary missing information. Within 10 days of the mailing of a notice of missing information, the applicant shall submit to the county a written statement indicating either an intent to submit the missing information or a refusal to submit the missing information. A statement indicating an intention to submit missing information shall constitute a waiver of the 90-day deadline contained in Oregon Constitution Article I, Section 18(d) for a period of time equal to the time it takes to supply the missing information. The County shall accept the application and begin review either:

- (1) Upon receipt of all of the missing information requested by the County;
- (2) Upon receipt of a written statement from the applicant indicating that the missing information will not be provided; or
- (3) Upon the 20th day after mailing the notice of missing information referred to above, if the applicant has not responded.

2.740 Application Review and Recommendation.

(1) The County Administrator shall make a determination as to whether the application qualifies for Board compensation consideration. An application qualifies for compensation consideration if the applicant has shown that all of the following criteria are met:

- (a) The County has either adopted or enforced a regulation that restricts the use of private real property;
- (b) The restriction on use has the effect of reducing the value of the property upon which the restriction is imposed;
- (c) The challenged regulation was adopted, first enforced or applied after the current owner of the property (the applicant) became the owner; and
- (d) The challenged regulation is not an exempt regulation as defined in LC 2.710.

(2) If an application fails to meet one or more of the criteria listed above, the County Administrator shall issue a written final decision denying the claim and explaining the reason(s) for determining that the application does not qualify for compensation consideration and will not be referred to the Board. If the application meets all of the criteria in LC 2.740(1)(a) through (d), the County Administrator shall issue a written decision referring the application to the Board and recommending, based on consideration of the criterion at LC 2.760(3), that the Board either compensate the applicant for the reduction in fair market value or discontinue application of the regulation to the subject property.

(3) After consideration of the information included in the application and any other evidence obtained or received, the County Administrator shall determine whether discontinuing application of a regulation is necessary to avoid owner entitlement to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, and if so the extent needed to avoid the entitlement to such compensation and the amount of compensation to which the owner would be entitled without discontinuing application of a regulation. The County Administrator shall compare the public benefits from application of the regulation to the private real property with the public burden of paying the required compensation to the owner if a discontinuance from application of the regulation is not granted, taking into consideration the financial resources of the County for the payment of such claims. Based on this comparison, the County Administrator shall prepare a written report to the Board stating these determinations and the evidence on which they are based.

(4) If discontinuing application of a regulation is necessary to avoid owner entitlement to compensation, the County Administrator shall make a recommendation either to grant a discontinuance of regulation application that will avoid owner entitlement to compensation, grant a discontinuance of regulation application that will not avoid but will reduce the compensation to which the owner is entitled and pay the reduced compensation, or deny a discontinuance of regulation application and pay the compensation to which the owner is entitled.

(5) Notice of the denial or recommendation to Board shall be mailed to the applicant.

(6) The County Administrator shall issue a decision denying the claim or making a referral recommendation to the Board by the 20th day after the application was accepted.

2.750 Application Notice.

(1) Within 5 days of the referral to the Board, but no less than 20 days before the Board holds a public hearing, written notice of the application shall be mailed to all of the following:

- (a) The applicant;
- (b) Other owners of the subject property listed on the application;

(c) Owners of record on the most recent property tax assessment roll of properties located within 500 feet of the perimeter of the subject property located entirely within an urban growth boundary or Rural Community and within 1500 feet of the perimeter of all other subject properties;

(d) Neighborhood groups or community organizations officially recognized by the Board and whose boundaries include the subject property; and

(e) Other agencies or interested parties as determined by the County Administrator.

(2) The failure of any person to receive notice shall not affect or invalidate any proceedings under LC 2.700 through 2.770.

(3) The notice shall include all of the following:

(a) The street address or other easily understood geographical reference to the subject property;

(b) The criterion for the decision;

(c) The place, date, and location of the hearing;

(d) The nature of the application and the proposed use or uses which could be authorized if the identified regulation application is discontinued with respect to the subject property;

(e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;

(f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

(g) A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost;

(h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue;

(i) The name and telephone number of a county contact person; and

(j) A brief summary of the local decision making process for the decision being made.

2.760

Board Consideration and Decision.

(1) Within 60 days of accepting a claim application, the Board shall either declare:

(a) The amount of compensation, if any, due to the owner(s) of the subject property; or

(b) The County will, as of the date of the decision, discontinue to apply the challenged regulation(s) to the subject property in a manner which reduces the value of that property.

(2) Where more than one regulation is being challenged, the Board may provide for a combination of the two remedies listed above.

(3) The Board decision shall be based upon consideration of whether the public interest would be better served by compensating the applicant, or by discontinuing to apply the challenged regulation(s) to the subject property. The Board decision shall be accompanied by a written decision that states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria set forth in LC 2.760(3).

(4) Within 5 days after the Board renders a decision, the County shall mail notice of the decision to all parties to the proceeding. The notice shall include a summary of the decision and an explanation of appeal rights.

(5) The County shall record notice of the Board decision in the county deed records.

2.770 Board Decision Effect.

(1) Pursuant to Measure 7, and notwithstanding any other law, rule, ordinance, resolution, goal or other enforceable enactment of the County, and notwithstanding any other procedure for release, exception, or otherwise in the Lane Code, the Board is authorized to discontinue application of a regulation upon a property by Order pursuant to LC 2.700 through 2.770 when the Board, in its discretion, elects to do so rather than paying compensation to the property owner.

(2) Any discontinued application of a regulation shall be in effect during such time as the owner owns the subject property and shall automatically cease when the property is owned by a new owner. Following termination of ownership of the property by the owner, the discontinued regulation shall be reinstated and apply to the property, and the new property owner shall, to the maximum extent permitted by law, bring the property immediately into compliance with the reinstated regulation.

(3) If the Board grants an Order discontinuing application of a regulation as a means to avoid having to compensate, or as a means to limit compensation to, an owner under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, and if, based on an appellate court interpretation or invalidation of Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, in the same or any other case, the applying owner was not entitled to compensation in relation to the discontinued regulation, then the discontinued application Order shall be deemed to have been invalid and ineffective as of and after the date of the Board's Order. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the County being required to compensate the owner under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution.

(4) Any discontinued application of regulation Order granted under LC 2.700 through 2.770 shall terminate automatically on the occurrence of any event which determines the owner or future owner of the private real property that is the subject of the discontinued application of regulation Order would not be entitled to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution in relation to the regulation made inapplicable by the Board Order.

Chapter 2

REAL PROPERTY COMPENSATION/REGULATION APPLICATION PROCESS2.700 Findings and Purpose.

(1) Findings. On November 7, 2000 the voters of the State of Oregon approved Ballot Measure 7 which amended Article 1, Section 18 of the Constitution of Oregon to require, under certain circumstances, payment to landowners if a government regulation reduces property value. Ballot Measure 7 permits owners of private real property to apply for compensation for the reduction of property value resulting from imposition of a regulation that restricts the use of that property and the government has 90 days from such application to deny or pay the claim or take action to not apply the regulation on the property. Since Ballot Measure 7 does not set forth a specific process for review of applications for compensation, it is in the best interests of Lane County to establish such a process in order to be able to assess such claims in a timely manner.

(2) Purpose. The provisions of LC 2.700 through 2.770 implement the provisions added to Article I, Section 18 of the Oregon Constitution by Ballot Measure 7 (November 7, 2000). The provisions of LC 2.700 through 2.770 establish a prompt, open, thorough and consistent process that enables property owners to present their legitimate claims consistent with the Oregon and U.S. Constitutions; enable persons with claims to have an adequate and fair opportunity to present them to the County; preserve and protect limited public funds; and establish a record of decision capable of appellate review. The provisions of LC 2.700 through 2.770 shall become operative only when the provisions added to Article I, Section 18 of the Oregon Constitution by Ballot Measure 7 (November 7, 2000) become effective.

2.710 Definitions. For the purpose of LC 2.700 through 2.770 the following terms, phrases, words and their derivations shall have the meaning given in LC 2.710. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular and words in the singular include the plural. Words not defined in LC 2.700 through 2.770 shall be given the meaning intended in Article 1, Section 18, subsections (a) through (f) of the Oregon Constitution, or as those words may be subsequently defined by statute. Words used in LC 2.700 through 2.770 that are the same as words used in Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, shall have the same meaning as the words used in those subsections of the Oregon Constitution, notwithstanding any different definition in any other regulation. If not defined there, the words shall be given their common and ordinary meaning.

County Administrator. The County Administrator or the Administrator's designee.

Exempt Regulation. A regulation that is an historically and commonly recognized nuisance law; a regulation to implement a requirement of federal law to the minimum extent required; or a regulation that prohibits selling pornography, performing nude dancing, selling alcoholic beverages or other controlled substances, or operating a casino or gaming parlor.

2.720

Lane Code

2.720(9)

2.720 Application for Claim. An applicant seeking to file a claim under LC 2.700 through 2.770 shall be an owner of the property that is the subject of the claim. An applicant shall submit an application to the County Administrator consisting of all of the items set out in LC 2.720(1) through (9). The County Administrator may waive the submission of any materials if not deemed applicable to the specific claim. Within 10 days of when the application is first submitted, the County Administrator may require additional information beyond that listed in LC 2.720(1) through (9) where useful to address approval criteria. The applicant is responsible for the completeness and accuracy of the application and all of the supporting documentation. The County will not deem the application complete until all information required by the County Administrator has been submitted. Unless specifically waived by the County Administrator, the following must be submitted:

(1) A completed application form;

(2) The name, mailing address, and phone number of the property owner filing the application, and of each of the other owners of the subject property, if any, along with the signature of each of the other owners indicating consent to the application claim;

(3) A legal description and tax lot number of the subject property as well as a street address for the property (if any);

(4) A title report issued within 30 days of the application's submittal, including title history and including a statement of the date the applicant acquired ownership of the subject property and showing the ownership interests of all owners of the property or, as an alternative to the title report, a copy of the deed(s) granting all existing ownership interests to the owner(s) of the subject property signing the application;

(5) A statement specifically identifying the section of Lane Code or other regulation that allegedly restricts the use of the real property and allegedly causes a reduction in the fair market value of the subject property, including the date the regulation was adopted, first enforced or applied to the subject property;

(6) A copy of a written appraisal by an appraiser licensed by the Appraiser Certification and Licensure Board of the State of Oregon, addressing the requirements of Article 1, Section 18, subsections (a) through (f) of the Oregon Constitution and indicating the amount of the alleged reduction in the fair market value of the property by showing the difference in the fair market value of the property before and after application of each of the challenged regulations, individually, and after the application of all of the challenged regulations, cumulatively;

(7) A written statement addressing the criteria listed in LC 2.740(a) through (d);

(8) A statement by the applicant specifying the amount of the claim, and the fair market value of the property before and after application of the challenged regulation(s); and

(9) Copies of any covenants, conditions and restrictions applicable to the subject property.

2.720(9)

Lane Code

2.740(1)

Unless waived by the County Administrator, an application also shall include an application fee, in the amount established by Order of the Board, to at least partially cover the County costs of processing the application, to the extent an application fee may be required as a condition of acceptance of filing of an application under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution. The County shall refund the application fee if it is determined by the County or by a court that the applicant is entitled to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution.

2.730 Completeness Review. The County Administrator shall review a claim application and, within 10 days of its receipt, notify the applicant as to whether the application is complete. If the County Administrator determines that the application is complete, the County Administrator shall begin the application review process. If the County Administrator determines that the application is incomplete, the county shall advise the applicant in writing of the necessary missing information. Within 10 days of the mailing of a notice of missing information, the applicant shall submit to the county a written statement indicating either an intent to submit the missing information or a refusal to submit the missing information. A statement indicating an intention to submit missing information shall constitute a waiver of the 90-day deadline contained in Oregon Constitution Article I, Section 18(d) for a period of time equal to the time it takes to supply the missing information. The County shall accept the application and begin review either:

- (1) Upon receipt of all of the missing information requested by the County;
- (2) Upon receipt of a written statement from the applicant indicating that the missing information will not be provided; or
- (3) Upon the 20th day after mailing the notice of missing information referred to above, if the applicant has not responded.

2.740 Application Review and Recommendation.

(1) The County Administrator shall make a determination as to whether the application qualifies for Board compensation consideration. An application qualifies for compensation consideration if the applicant has shown that all of the following criteria are met:

- (a) The County has either adopted or enforced a regulation that restricts the use of private real property;
- (b) The restriction on use has the effect of reducing the value of the property upon which the restriction is imposed;
- (c) The challenged regulation was adopted, first enforced or applied after the current owner of the property (the applicant) became the owner; and
- (d) The challenged regulation is not an exempt regulation as defined in LC 2.710.

2.740(2)

Lane Code

2.750(1)

(2) If an application fails to meet one or more of the criteria listed above, the County Administrator shall issue a written final decision denying the claim and explaining the reason(s) for determining that the application does not qualify for compensation consideration and will not be referred to the Board. If the application meets all of the criteria in LC 2.740(1)(a) through (d), the County Administrator shall issue a written decision referring the application to the Board and recommending, based on consideration of the criterion at LC 2.760(3), that the Board either compensate the applicant for the reduction in fair market value or discontinue application of the regulation to the subject property.

(3) After consideration of the information included in the application and any other evidence obtained or received, the County Administrator shall determine whether discontinuing application of a regulation is necessary to avoid owner entitlement to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, and if so the extent needed to avoid the entitlement to such compensation and the amount of compensation to which the owner would be entitled without discontinuing application of a regulation. The County Administrator shall compare the public benefits from application of the regulation to the private real property with the public burden of paying the required compensation to the owner if a discontinuance from application of the regulation is not granted, taking into consideration the financial resources of the County for the payment of such claims. Based on this comparison, the County Administrator shall prepare a written report to the Board stating these determinations and the evidence on which they are based.

(4) If discontinuing application of a regulation is necessary to avoid owner entitlement to compensation, the County Administrator shall make a recommendation either to grant a discontinuance of regulation application that will avoid owner entitlement to compensation, grant a discontinuance of regulation application that will not avoid but will reduce the compensation to which the owner is entitled and pay the reduced compensation, or deny a discontinuance of regulation application and pay the compensation to which the owner is entitled.

(5) Notice of the denial or recommendation to Board shall be mailed to the applicant.

(6) The County Administrator shall issue a decision denying the claim or making a referral recommendation to the Board by the 20th day after the application was accepted.

2.750

Application Notice.

(1) Within 5 days of the referral to the Board, but no less than 20 days before the Board holds a public hearing, written notice of the application shall be mailed to all of the following:

- (a) The applicant;
- (b) Other owners of the subject property listed on the application;

2.750(1)

Lane Code

2.760(1)

(c) Owners of record on the most recent property tax assessment roll of properties located within 500 feet of the perimeter of the subject property located entirely within an urban growth boundary or Rural Community and within 1500 feet of the perimeter of all other subject properties;

(d) Neighborhood groups or community organizations officially recognized by the Board and whose boundaries include the subject property; and

(e) Other agencies or interested parties as determined by the County Administrator.

(2) The failure of any person to receive notice shall not affect or invalidate any proceedings under LC 2.700 through 2.770.

(3) The notice shall include all of the following:

(a) The street address or other easily understood geographical reference to the subject property;

(b) The criterion for the decision;

(c) The place, date, and location of the hearing;

(d) The nature of the application and the proposed use or uses which could be authorized if the identified regulation application is discontinued with respect to the subject property;

(e) A statement that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;

(f) A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings;

(g) A statement that copies of the application and all evidence and documents submitted by or on behalf of the applicant are available for review, and that copies can be obtained at cost;

(h) A statement that failure to raise an issue at the hearing, in person or by letter, or failure to provide statements or evidence with sufficient specificity to enable the decision maker to respond to the issue, precludes an appeal based on that issue;

(i) The name and telephone number of a county contact person;
and

(j) A brief summary of the local decision making process for the decision being made.

2.760

Board Consideration and Decision.

(1) Within 60 days of accepting a claim application, the Board shall either declare:

(a) The amount of compensation, if any, due to the owner(s) of the subject property; or

(b) The County will, as of the date of the decision, discontinue to apply the challenged regulation(s) to the subject property in a manner which reduces the value of that property.

2.760(2)

Lane Code

2.770(4)

(2) Where more than one regulation is being challenged, the Board may provide for a combination of the two remedies listed above.

(3) The Board decision shall be based upon consideration of whether the public interest would be better served by compensating the applicant, or by discontinuing to apply the challenged regulation(s) to the subject property. The Board decision shall be accompanied by a written decision that states the facts relied upon in rendering the decision and explains the justification for the decision based upon the criteria set forth in LC 2.760(3).

(4) Within 5 days after the Board renders a decision, the County shall mail notice of the decision to all parties to the proceeding. The notice shall include a summary of the decision and an explanation of appeal rights.

(5) The County shall record notice of the Board decision in the county deed records.

2.770 Board Decision Effect.

(1) Pursuant to Measure 7, and notwithstanding any other law, rule, ordinance, resolution, goal or other enforceable enactment of the County, and notwithstanding any other procedure for release, exception, or otherwise in the Lane Code, the Board is authorized to discontinue application of a regulation upon a property by Order pursuant to LC 2.700 through 2.770 when the Board, in its discretion, elects to do so rather than paying compensation to the property owner.

(2) Any discontinued application of a regulation shall be in effect during such time as the owner owns the subject property and shall automatically cease when the property is owned by a new owner. Following termination of ownership of the property by the owner, the discontinued regulation shall be reinstated and apply to the property, and the new property owner shall, to the maximum extent permitted by law, bring the property immediately into compliance with the reinstated regulation.

(3) If the Board grants an Order discontinuing application of a regulation as a means to avoid having to compensate, or as a means to limit compensation to, an owner under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, and if, based on an appellate court interpretation or invalidation of Article I, Section 18, subsections (a) through (f) of the Oregon Constitution, in the same or any other case, the applying owner was not entitled to compensation in relation to the discontinued regulation, then the discontinued application Order shall be deemed to have been invalid and ineffective as of and after the date of the Board's Order. Any such invalidity and ineffectiveness shall be limited as necessary to avoid the County being required to compensate the owner under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution.

(4) Any discontinued application of regulation Order granted under LC 2.700 through 2.770 shall terminate automatically on the occurrence of any event which determines the owner or future owner of the private real property that is the subject of the discontinued application of regulation Order would not be entitled to compensation under Article I, Section 18, subsections (a) through (f) of the Oregon Constitution in relation to the regulation made inapplicable by the Board Order.